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| 09/937,542 | 09/26/2001 | Michael S.G. Bell | 40198/324831(CAN100) | 2060 |
| 23370 7590 03/10/2009 JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309 | | | | |
| EXAMINER | | | | |
| NGUYEN, VI X | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/937,542

Applicant(s)

BELL ET AL.

Examiner

Victor X. Nguyen

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5, 10-20 and 23-43 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 3, 4, 10-20, 23-30 and 32-43 is/are rejected.
7) ☒ Claim(s) 5, 31 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. The Non-Final Office Action mailed 8/5/2008 was in error and is hereby withdrawn. The following action on the merits replaces the previous action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-18 and 40-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15 and 40 recite the limitation “a collet having a proximal end”. Since claim 15 depends on claim 23, where claim 23 recites “a collet”, it appears that applicant is attempting to claim a second collet. Appropriate correction is required.

Claims 29-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 29, the functional recitation that the blade bar has a portion for “urging the distal end of the blade into engagement with the handle body” is indefinite because it is not supported by recitation in the claim of sufficient structure to accomplish the function. The blade bar has no structure that would cause such biasing.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3,4,10-14,19,23-30 and 32-39 are rejected under 35 U.S.C. 102(c) as being anticipated by Werner (5,779,724).

Werner discloses: a handle assembly for a detachable scalpel blade having a keyed slot, the handle assembly comprising: (a) a handle body (42) having a longitudinal axis, (b) a blade bar 88 protruding from the handle body and having a tang 90 for insertion in the keyed slot 92, (c) a spring 58 for urging the distal end of the blade bar into the handle body and a collet 98.

Regarding claims 24, 30, the collet further comprises a through bore 49 within which the blade bar 88 is positioned.

Regarding claim 25, the collet further comprises a slot 106.

Regarding claim 28, the tang 90 is defined by a groove (the groove is between the area 89 and 90) and a heel.

Regarding claims 3 and 30, the blade 40 is received in a groove in the protruding portion of the bar.

Regarding claim 4, the spring comprises a tapered, coiled spring (see col. 12, lines 8-10)
Regarding claim 10, the bore 49 is sized and shaped to permit the bar to move laterally along one axis orthogonal to the longitudinal axis. It is noted that engineering tolerance would allow some movement to permit the bar to move laterally.

Regarding claim 12, the bar is coupled to an actuator 44 for urging the protruding portion of the bar out of the handle assembly for removing the blade from the bar or mounting the blade on the bar.

Regarding claims 13-14, the actuator is a button 144 attached to a rod 45, the rod has two ends and the bar attaches to one end and the button attaches to the other end.

Regarding claims 17-19, the handle grip further comprises ribs (fig. 2), the collet 98 flares at its proximal end, and the assembly further comprising a retainer 82 for capturing a rod within the handle body.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18, 20, 40-41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werner in view of Hickok et al (5,867,912).

Werner discloses the invention substantially as claimed (see rejection of claims 19 and 42 above). Werner is silent regarding a retainer attached to a handle body with mating threads. Hickok et al teach a retainer attached to a handle body with mating threads (fig. 8, elements 56, 68). Therefore, it would have been obvious having ordinary skill in the art at the time the invention was made to modify Werner by making a retainer attached to a handle body with mating threads as taught by Hickok in order to secure tightly the retainer with the handle body.

Regarding claims 15 and 40, Werner discloses the invention substantially as claimed (see rejection of claims 23 and 29 above). Werner is silent regarding a collet core. Hickok et al teach a collet 56 and a collet core 16. Therefore, it would have been obvious having ordinary skill in the art at the time the invention was made to modify Werner by making a collet core is attached to a collet as taught by Hickok in order to more securely hold the blade in place in the collet core.

Claims 26-27 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werner in view of Gartito et al (5,984,918).

Werner discloses the invention substantially as claimed (see rejection of claims 25 and 29 above). Werner is silent regarding the collet comprises at least one face sloping toward the slot. Gartito et al teach the collet comprises at least one face 66 sloping toward the slot (see figure 4). Therefore, it would have been obvious having ordinary skill in the art at the time the invention was made to modify Werner by making the collet comprise at least one face sloping toward the slot as taught by Gartito et al. in order to facilitate placement of the blade bar in the collet.

Allowable Subject Matter

5. Claims 5 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record, alone or in combination, discloses or suggests the bar is bent and the groove is approximately parallel to the longitudinal axis.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,250,063 to Abidin et al. U.S. Pat. No. 5,752,968 to Jolly et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VN/

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3734